



NFPA

The Food Safety People

NATIONAL

FOOD

PROCESSORS

ASSOCIATION

June 23, 1999

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Dockets Management Branch
(HFA-305)

Food and Drug Administration

Room 1061

5630 Fishers Lane

Rockville, MD 20852

[Docket No. 98P-0968] Food Labeling: Declaration of
Ingredients

64 Federal Register 17295, April 9, 1999.

Dear Sir or Madam:

The National Food Processors Association (NFPA) submits the following
comments on the docket referenced above.

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Washington, DC 20005
202-639-5900

NFPA is the principal scientific trade association representing the \$430 billion
food processing industry. With three laboratory centers, NFPA is the leading
authority on food science and safety for the food industry. For more than 90
years, the food industry has relied on NFPA for government and regulatory
affairs representation, scientific research, technical services, education,
communications, and crisis management.

NFPA supports the intent of proposed 21 CFR 101.4(b)(23), to provide for
disjunctive ingredient labeling for certain fish products when the processor is
unable to adhere to a constant pattern of fish species in the fish protein
ingredient, because of seasonal or other limitations of species availability.

WASHINGTON, DC
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SEATTLE, WA

However, NFPA believes that FDA should broaden the scope of the proposed
rule to allow for this manner of ingredient labeling on additional fish products
that may not meet the technical definition of "surimi." There are a number of
seafood products in which the fish ingredient tends to be generic white fish of
the same types that are processed into surimi. These fish products include fish
sticks and portions, made from minced fish, that conform to the common or
usual name rule at 21 CFR 102.45, as well as fish stews, soups, and chowders.
They tend to be marketed generically to consumers as "fish [product]," with no

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mention on the label, other than in the declaration of ingredients, of the common or usual name(s) of the fish species used in the formulation of the product. Indeed, in the case of products that conform to 102.45, the naming rule specifies that they shall be named "fish [sticks or portions] made from minced fish."

These products often rely on a variety of fish species for the fish ingredient, and these species often are the same typically used in the processing of surimi, namely, Alaskan pollock, Pacific whiting/hake, cod, and arrowtooth flounder. The fish ingredient is processed prior to formulation of the final consumer product, chiefly to ensure a consistent final product regardless of the fish species being utilized. The processing of the fish ingredient thus decharacterizes the fish species to an extent, although not to the degree typical in the processing of surimi. In addition, there may be blending of fish tissues from several species, although likely not either consistent in species or relative quantity. The fish ingredient that remains after initial processing consists primarily of cleaned muscle tissues. These are then formed into portions, in the case of the products that conform to 102.45, or added to stews, soups, and chowders in the initially processed form.

Since these products rely on the same fish species as are used in the formulation of surimi, they are subject to the same seasonality, quota limitations, and cost considerations as are applicable in the case of surimi processing. Because of these considerations, processors may be unable to adhere to a constant pattern of fish species in producing these products. These products would be at a disadvantage in the marketplace, as they would have to maintain a label inventory capturing all possible variations of ingredient declarations, to reflect the variable fish species supply, unless they are extended the same ingredient declaration consideration proposed for surimi products.

NFPA believes that small adjustments to the language of the proposed rule would ensure that the disjunctive ingredient labeling provision is extended to such "fish" products. First, the fish ingredient should be characterized as a processed fish ingredient. Processing prior to final formulation is necessary to decharacterize the fish species to the extent necessary for the successful formulation of the finished product, be it surimi or "fish" product. Second, it should not be necessary to describe the processed fish ingredient as "fish protein," although both would consist primarily of the myofibrillar protein fraction from the source fish. 21 CFR 102.45 recognizes that the fish ingredient for those products is "minced fish," which is comminuted and decharacterized to a degree, but is more than "fish protein."

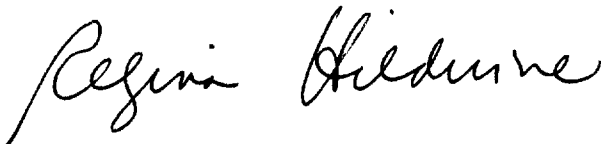
NFPA believes that small editorial adjustments to the language of the proposed rule will broaden the scope without altering the fundamental intent of the rule, and will thus broaden this ingredient declaration provisions to include "fish" products, including those conforming to 102.45, rather than be limited to surimi. NFPA has marked the paragraph of proposed 21 CFR 101.4(b)(23) below to reflect these recommend changes; deletions are shown with a strike-through, and additions to the text are underscored. We urge FDA to incorporate these editorial changes into the text of the final rule

Proposed 21 CFR 101.4(b)(23), amended:

When processed seafood products contain fish ~~protein~~ ingredients processed to consist ~~consisting~~ primarily of the myofibrillar protein fraction from one or more fish species and the manufacturer is unable to adhere to a constant pattern of fish species in the processed fish ~~protein~~ ingredient, because of seasonal or other limitations of species availability, the common or usual name of each individual fish species need not be listed in descending order of predominance. Fish species not present in the processed fish ~~protein~~ ingredient may be listed if they are sometimes used in the product. Such ingredients must be identified by words indicating that they may not be present, such as "or", "and/or", or "contains one or more of the following:", e.g., "fish ~~protein~~ (contains one or more of the following: Pollock, cod, and/or pacific whiting)".

Thank you for the opportunity to comment on this important issue.

Sincerely,

A handwritten signature in black ink, appearing to read "Regina Hildwine", written in a cursive style.

Regina Hildwine
Director, Food Labeling and Standards
Regulatory Affairs



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By Messenger

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